

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	Chapter 7
	:	
WILTON ARMETALE, INC., A/K/A	:	Case No. 16-16779-ref
WAPITA, INC.,	:	
Debtor.	:	
	:	
DAVID A. EISENBERG, as Chapter 7	:	
Trustee of WILTON ARMETAL, INC.	:	Adversary No. _____
a/k/a WAPITA, INC,	:	
Plaintiff,	:	
v.	:	
	:	
LEISAWITZ HELLER ABRAMOWITCH	:	
PHILLIPS, P.C. d/b/a THE LAW FIRM OF	:	
LEISAWITZ HELLER d/b/a LEISAWITZ	:	
HELLER, CHARLES J. PHILLIPS,	:	
ESQUIRE AND EDEN R. BUCHER,	:	
ESQUIRE,	:	
Defendant.	:	
	:	

NOTICE OF REMOVAL

Defendants, Leisawitz Heller Abramowitch Phillips, P.C. d/b/a The Law Firm of Leisawitz Heller d/b/a Leisawitz Heller, Charles J. Phillips, Esquire and Eden R. Bucher, Esquire, for the purpose of removing this case to the United States Bankruptcy Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. § 1452(a) and 28 U.S.C. § 1334, avers as follows:

1. This civil action, *David A. Eisenberg, as Chapter 7 Trustee of Wilton Armetale, Inc. a/k/a WAPITA, Inc. v. Leisawitz Heller Abramowitch Phillips, P.C. d/b/a The Law Firm of Leisawitz Heller d/b/a Leisawitz Heller, Charles J. Phillips, Esquire and Eden R. Bucher, Esquire*, is currently pending in the Philadelphia County Court of Common Pleas at Number 171102001.

2. The action was commenced on November 20, 2017 by the filing of a complaint. A true and correct copy of the Complaint is attached hereto as Exhibit A.
3. The complaint was served on defendants on November 30, 2017.
4. Plaintiff is David A. Eisenberg, the Chapter 7 Trustee for debtor, Wilton Armetale, Inc. a/k/a WAPITA, Inc.
5. On September 26, 2016, Debtor, Wilton Armetale, Inc. a/k/a WAPITA, Inc. (“debtor” or “Wilton”) filed a voluntary petition under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania at Case No. 16-16779-ref.
6. Mr. Eisenberg was appointed the Chapter 7 Trustee for the debtor on September 27, 2016.
7. In the complaint, Mr. Eisenberg, on behalf of debtor, alleges claims against defendants Phillips, Bucher and their law firm, Leisawitz Heller, for legal malpractice based on negligence and breach of contract.
8. The trustee’s claims are based on defendants’ representation of debtor Wilton for: Wilton’s sale of its non-real estate assets to a liquidator, Gordon Brothers, in early 2016; an action by a Wilton creditor, Artesanias, and the alleged failure to oppose Artesanias’ entry of judgment against Wilton in April 2016; and confession of judgment and execution proceedings against Wilton by another creditor, North Mill. *See* Complaint (Exhibit A).
9. This Notice of Removal is being filed within 30 days of service of the trustee’s complaint on defendants, the initial pleading setting forth the claims or causes of action defendants are removing and, therefore, is timely. Fed. R. Bank. P. 9027(3).
10. Removal of this action is authorized under 28 U.S.C. § 1452(a) because this is a claim or cause of action over which this Court has jurisdiction under 28 U.S.C. § 1334.

11. Pursuant to 28 U.S.C. § 1452 “[a] party may remove any claim or cause of action in a civil action . . . to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.” to 28 U.S.C. § 1452(a).

12. Title 28 U.S.C. § 1334 provides in pertinent part “the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.” 28 U.S.C. § 1334(b).

13. A non-exhaustive list of matters included within the Bankruptcy Court’s core jurisdiction is set forth at 28 U.S.C. § 157(b)(2) and includes: matters concerning the administration of the estate; and other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, except personal injury tort or wrongful death claims. 28 U.S.C.S. § 157(b)(2)(A) and (O).

14. The United States District Court for the Eastern District of Pennsylvania, by order dated July 25, 1984 and subsequently amended November 8, 1990, has ordered that:

Any and all cases under chapter 7, 11, 12 and 13 of Title 11 and any and all proceedings arising under title 11 or arising in or related to a chapter 7, 11, 12, or 13 case under Title 11 are and shall be referred to the Bankruptcy Judges for the district.

15. The trustee’s Complaint is a core proceeding because it arises under Title 11, including the categories of proceedings listed above.

16. Alternatively, if the Eisenberg Complaint is not a core proceeding, it is related to this bankruptcy proceeding because the adjudication of the lawsuit will have an effect on the administration of Wilton’s bankruptcy estate.

17. A recovery by the trustee will effect that debtor’s assets available for distribution to creditors.

18. In the event this Court determines that the trustee's Complaint is a non-core proceeding, defendants do not consent to the entry of final orders or judgments by this Court.

WHEREFORE, Defendants, Leisawitz Heller Abramowitch Phillips, P.C. d/b/a The Law Firm of Leisawitz Heller d/b/a Leisawitz Heller, Charles J. Phillips, Esquire and Eden R. Bucher, Esquire, request that the Eisenberg Complaint be removed from the Philadelphia Court of Common Pleas and transferred to the United States Bankruptcy Court for the Eastern District of Pennsylvania.

Respectfully submitted,

/s/Jeffrey B. McCarron

Jeffrey B. McCarron, Esquire

PA I.D. No. 49467

Kathleen M. Carson, Esquire

PA I.D. No. 47981

SWARTZ CAMPBELL LLC

Two Liberty Place, Fl. 28

50 South 16th Street

Philadelphia, PA 19102

Phone: (215) 564-5190

Fax: (215) 299-4301

jmccarron@swartzcampbell.com

kcarson@swartzcampbell.com

*Attorneys for Defendants, Leisawitz Heller
Abramowitch Phillips, P.C. d/b/a The Law
Firm of Leisawitz Heller d/b/a Leisawitz
Heller, Charles J. Phillips, Esquire and
Eden R. Bucher, Esquire*

Date: December 18, 2017